

SENATE BILL 296

Q3

2lr1275

By: **Senators Manno, Miller, Astle, Benson, Brinkley, Colburn, Conway, Currie, DeGrange, Edwards, Forehand, Garagiola, Glassman, Jacobs, Jones–Rodwell, Kasemeyer, King, Klausmeier, Mathias, McFadden, Peters, Pipkin, Pugh, Ramirez, Reilly, Robey, Stone, and Young**

Introduced and read first time: January 26, 2012

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Income Tax Credit – Security Clearance Expenses**

3 FOR the purpose of allowing an individual or a corporation to claim a credit against
4 the State income tax for certain costs incurred to obtain federal security
5 clearances; requiring the Department of Business and Economic Development
6 to provide an application process for the credit at least a certain number of
7 times each fiscal year; providing for the total amount of credit certificates that
8 may be issued during a certain application period; providing for the distribution
9 of credit certificates; providing for the carryforward of the credit; providing that
10 the total amount of credits that may be claimed may not exceed the amount of
11 certificates issued to the individual or corporation; requiring the Department to
12 notify the Comptroller of the maximum amount of each credit certificate;
13 requiring the Comptroller to transfer the amount stated in the credit certificate
14 from a certain Reserve Fund to the General Fund; establishing the Security
15 Clearance Income Tax Credit Reserve Fund as a special, nonlapsing fund;
16 requiring the Secretary of Business and Economic Development to administer
17 the Fund; requiring the State Treasurer to hold the Fund and the Comptroller
18 to account for the Fund; specifying the contents of the Fund; specifying the
19 purpose for which the Fund may be used; providing for the investment of money
20 in and expenditures from the Fund; requiring the Governor to make certain
21 appropriations in certain fiscal years; requiring the Department, in consultation
22 with the Comptroller, to adopt certain regulations; requiring the Department to
23 report to the Governor and the General Assembly on or before a certain date
24 each year; defining certain terms; providing for the application of this Act; and
25 generally relating to a credit against the State income tax for certain costs
26 incurred to obtain federal security clearances.

27 BY repealing and reenacting, without amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Tax – General
2 Section 10–204(a) and 10–305(a)
3 Annotated Code of Maryland
4 (2010 Replacement Volume and 2011 Supplement)

5 BY adding to
6 Article – Tax – General
7 Section 10–204(j) and 10–731
8 Annotated Code of Maryland
9 (2010 Replacement Volume and 2011 Supplement)

10 BY repealing and reenacting, with amendments,
11 Article – Tax – General
12 Section 10–305(d)
13 Annotated Code of Maryland
14 (2010 Replacement Volume and 2011 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
16 MARYLAND, That the Laws of Maryland read as follows:

17 **Article – Tax – General**

18 10–204.

19 (a) To the extent excluded from federal adjusted gross income, the amounts
20 under this section are added to the federal adjusted gross income of a resident to
21 determine Maryland adjusted gross income.

22 **(J) THE ADDITION UNDER SUBSECTION (A) OF THIS SECTION INCLUDES**
23 **ANY AMOUNT DEDUCTED FOR THE COSTS INCURRED TO OBTAIN A FEDERAL**
24 **SECURITY CLEARANCE IF THE AMOUNT IS INCLUDED IN THE APPLICATION FOR**
25 **A CREDIT CERTIFICATE UNDER § 10–731 OF THIS TITLE.**

26 10–305.

27 (a) To the extent excluded from federal taxable income, the amounts under
28 this section are added to the federal taxable income of a corporation to determine
29 Maryland modified income.

30 (d) The addition under subsection (a) of this section includes the additions
31 required for an individual under:

32 (1) § 10–204(b) of this title (Dividends and interest from another state
33 or local obligation);

34 (2) § 10–204(c)(2) of this title (Federal tax–exempt income);

1 (3) § 10-204(e) of this title (Oil percentage depletion allowance); [and]

2 (4) § 10-204(i) of this title (Deduction for qualified production
3 activities income); AND

4 **(5) § 10-204(J) OF THIS TITLE (DEDUCTION FOR COSTS**
5 **INCURRED TO OBTAIN A FEDERAL SECURITY CLEARANCE).**

6 **10-731.**

7 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE**
8 **MEANINGS INDICATED.**

9 **(2) “DEPARTMENT” MEANS THE DEPARTMENT OF BUSINESS AND**
10 **ECONOMIC DEVELOPMENT.**

11 **(3) “RESERVE FUND” MEANS THE SECURITY CLEARANCE**
12 **INCOME TAX CREDIT RESERVE FUND ESTABLISHED UNDER SUBSECTION (E) OF**
13 **THIS SECTION.**

14 **(4) “SECRETARY” MEANS THE SECRETARY OF BUSINESS AND**
15 **ECONOMIC DEVELOPMENT.**

16 **(B) (1) THREE TIMES EACH FISCAL YEAR THE DEPARTMENT SHALL**
17 **ALLOW AN INDIVIDUAL OR CORPORATION TO APPLY FOR CREDIT CERTIFICATES**
18 **FOR THE COSTS INCURRED TO OBTAIN FEDERAL SECURITY CLEARANCES.**

19 **(2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS**
20 **PARAGRAPH, DURING EACH APPLICATION PERIOD, THE TOTAL AMOUNT OF**
21 **CREDIT CERTIFICATES THE DEPARTMENT MAY ISSUE MAY NOT EXCEED**
22 **ONE-THIRD OF THE AMOUNT APPROPRIATED IN THE STATE BUDGET TO THE**
23 **RESERVE FUND.**

24 **(II) IF THE AGGREGATE CREDIT AMOUNTS UNDER THE**
25 **CREDIT CERTIFICATES ISSUED DURING THE APPLICATION PERIOD TOTAL LESS**
26 **THAN THE TOTAL AMOUNT THE DEPARTMENT MAY ISSUE UNDER**
27 **SUBPARAGRAPH (I) OF THIS PARAGRAPH, ANY EXCESS AMOUNT SHALL REMAIN**
28 **IN THE RESERVE FUND AND MAY BE ISSUED UNDER CREDIT CERTIFICATES**
29 **DURING THE NEXT APPLICATION PERIOD.**

30 **(3) IF THE TOTAL AMOUNT OF CREDITS SOUGHT DURING THE**
31 **APPLICATION PERIOD EXCEED THE AMOUNT AUTHORIZED TO BE ISSUED, THE**
32 **DEPARTMENT SHALL APPROVE CREDIT CERTIFICATES IN AMOUNTS THAT ARE**

1 IN PROPORTION TO THE VALUE OF THE CREDIT CERTIFICATES APPLIED FOR
2 DURING THE APPLICATION PERIOD.

3 (C) (1) SUBJECT TO THE LIMITATIONS OF THIS SECTION, AN
4 INDIVIDUAL OR CORPORATION MAY CLAIM A CREDIT AGAINST THE STATE
5 INCOME TAX IN THE AMOUNT STATED IN THE CREDIT CERTIFICATE APPROVED
6 BY THE SECRETARY FOR COSTS AS PROVIDED UNDER THIS SECTION.

7 (2) IF THE CREDIT ALLOWED FOR ANY TAXABLE YEAR UNDER
8 THIS SECTION EXCEEDS THE TOTAL TAX OTHERWISE DUE, AN INDIVIDUAL OR
9 CORPORATION MAY APPLY THE EXCESS AS A CREDIT AGAINST THE STATE
10 INCOME TAX FOR SUCCEEDING TAXABLE YEARS UNTIL THE FULL AMOUNT OF
11 THE EXCESS IS USED.

12 (D) (1) THE TOTAL AMOUNT OF CREDITS AN INDIVIDUAL OR
13 CORPORATION MAY CLAIM MAY NOT EXCEED THE AMOUNT OF THE CREDIT
14 CERTIFICATES ISSUED TO THE INDIVIDUAL OR CORPORATION.

15 (2) (I) WITHIN 15 DAYS AFTER THE END OF EACH
16 APPLICATION PERIOD, THE DEPARTMENT SHALL NOTIFY THE COMPTROLLER
17 OF THE MAXIMUM AMOUNT STATED IN EACH CREDIT CERTIFICATE ISSUED
18 DURING THE APPLICATION PERIOD.

19 (II) THE COMPTROLLER SHALL TRANSFER AN AMOUNT
20 EQUAL TO THE CREDIT AMOUNT STATED IN THE CREDIT CERTIFICATE FROM
21 THE RESERVE FUND TO THE GENERAL FUND.

22 (E) (1) THERE IS A SECURITY CLEARANCE INCOME TAX CREDIT
23 RESERVE FUND.

24 (2) THE PURPOSE OF THE RESERVE FUND IS TO PROVIDE A
25 BUDGETARY LIMIT ON THE AMOUNT OF TAX CREDITS THE DEPARTMENT MAY
26 ISSUE EACH FISCAL YEAR.

27 (3) THE SECRETARY SHALL ADMINISTER THE RESERVE FUND.

28 (4) (I) THE RESERVE FUND IS A SPECIAL, NONLAPSING FUND
29 THAT IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT
30 ARTICLE.

31 (II) THE STATE TREASURER SHALL HOLD THE RESERVE
32 FUND SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE
33 RESERVE FUND.

1 **(5) (I) THE RESERVE FUND CONSISTS OF MONEY**
2 **APPROPRIATED IN THE STATE BUDGET TO THE RESERVE FUND.**

3 **(II) FOR EACH OF FISCAL YEAR 2014 AND FISCAL YEAR**
4 **2015, THE GOVERNOR SHALL APPROPRIATE AT LEAST \$6,000,000 TO THE**
5 **RESERVE FUND.**

6 **(6) THE RESERVE FUND MAY BE USED ONLY TO REIMBURSE THE**
7 **GENERAL FUND FOR THE AMOUNT OF CREDIT CERTIFICATES ISSUED UNDER**
8 **THIS SECTION.**

9 **(7) (I) THE STATE TREASURER SHALL INVEST THE MONEY OF**
10 **THE RESERVE FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE**
11 **INVESTED.**

12 **(II) ANY INVESTMENT EARNINGS OF THE RESERVE FUND**
13 **SHALL BE CREDITED TO THE GENERAL FUND OF THE STATE.**

14 **(F) THE DEPARTMENT, IN CONSULTATION WITH THE COMPTROLLER,**
15 **SHALL ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS SECTION**
16 **AND TO SPECIFY THE COSTS ELIGIBLE FOR THE INCOME TAX CREDIT.**

17 **(G) ON OR BEFORE DECEMBER 31 OF EACH YEAR, THE DEPARTMENT**
18 **SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF**
19 **THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON THE NUMBER**
20 **OF CREDIT CERTIFICATES ISSUED IN THE PREVIOUS FISCAL YEAR.**

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
22 July 1, 2012, and shall be applicable to all taxable years beginning after December 31,
23 2011.